

Introduced by Senator Wright

February 18, 2009

An act to add ~~Section 110726~~ *Sections 110726 and 110727* to the Health and Safety Code, relating to misbranded food.

LEGISLATIVE COUNSEL'S DIGEST

SB 190, as amended, Wright. Misbranded food: pomegranate juice.

The Sherman Food, Drug, and Cosmetic Law contains various provisions regarding the contents, packaging, labeling, and advertising of food, drugs, and cosmetics. The law provides that, except as specified, any food fabricated from 2 or more ingredients is misbranded unless it bears a label clearly stating the common or usual name of each ingredient, and if the food purports to be a beverage containing vegetable or fruit juice, a statement with appropriate prominence on the information panel of the total percentage of fruit or vegetable juice contained in the food. The law makes it a misdemeanor *punishable as prescribed*, to misbrand any food.

The law also provides that all food labeling regulations adopted pursuant to the federal Food, Drug, and Cosmetic Act shall be the food labeling regulations of this state.

~~This bill would provide that pomegranate juice is misbranded if the label does not meet the percentage juice declaration requirements of a specified federal regulation. By~~

This bill would permit labeling as 100% pomegranate juice or pomegranate concentrate that reconstitutes to single-strength, 100% pomegranate juice only if prescribed requirements are met.

The bill would also provide that only a beverage that includes 100% pomegranate juice or pomegranate juice from concentrate that reconstitutes to single-strength, 100% pomegranate juice may be labeled to purport to include pomegranate juice, as specified.

The bill would, notwithstanding existing penalty provisions, make it a misdemeanor, punishable as prescribed, to violate these provisions, and would specify that each labeling violation constitutes a separate offense.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) California is the only commercial growing region of
- 4 pomegranates in the United States.
- 5 (b) ~~California farmers~~ *Over 250 farmers in California* grow
- 6 commercial pomegranates on approximately 35,000 acres,
- 7 generating thousands of jobs and nearly ~~\$75,000,000~~ *seventy-five*
- 8 *million dollars (\$75,000,000)* to California's farm economy.
- 9 (c) California pomegranate varieties are superior in quality,
- 10 size, taste, and color to pomegranates produced abroad.
- 11 (d) Many pomegranates grown in California are processed into
- 12 juice, which is sold throughout the United States and abroad.
- 13 (e) ~~Over \$25,000,000~~ *twenty-five million dollars (\$25,000,000)*
- 14 has been spent on medical research on specific varieties of
- 15 California pomegranates. This research shows that these California
- 16 pomegranates contain high levels of antioxidants, which help fight
- 17 free radicals. Also, 100 percent pomegranate juice from California
- 18 pomegranates helps fight prostate cancer and heart disease.
- 19 Preliminary research shows benefits relating to colon cancer,
- 20 erectile dysfunction, and diabetes.

(f) The proven benefits of authentic 100 percent California pomegranate juice, combined with the high costs of production, have led to the selling of diluted and adulterated pomegranate juice on the market that is falsely represented as 100 percent pomegranate juice. Misbranded pomegranate juice not only misrepresents the health value of the pomegranate juice to consumers, it also damages those who manufacture authentic 100 percent pomegranate juice and the economic health of the state's pomegranate growers.

SEC. 2. Section 110726 is added to the Health and Safety Code, to read:

~~110726. Pomegranate juice is misbranded if the label does not meet the percentage juice declaration requirements of Section 101.30 of Title 21 of the Code of Federal Regulations in effect as December 31, 2009.~~

110726. For purposes of Section 110727, the following definitions shall apply:

(a) *"Pomegranate juice" means the edible juice obtained by mechanical process from a pomegranate (Punica granatum) and includes juice that is concentrated and later reconstituted with water to maintain substantially the original composition of the juice. "Pomegranate juice" may include finely divided insoluble solids, except that it shall not contain pieces of shell, seeds, or other course or hard substances or excess pulp.*

(b) *"100 percent pomegranate juice" or "pomegranate juice concentrate that reconstitutes to single-strength, 100 percent pomegranate juice" means pomegranate juice that consistently has the following composition:*

(1) *The polyphenol profile, as measured by high pressure liquid chromatography, fits the following criteria:*

(A) *It has six characteristic pomegranate anthocyanins, including delphinidin-3, 5-diglucoside, delphinidin-3-glucoside, cyanidin-3, 5-diglucoside and cyanidin-3-glucoside, perlargonidin-3, 5-diglucoside, and perlargonidin-3-glucoside.*

(B) *It does not have atypical anthocyanins.*

(C) *It has at least 20 milligrams per liter of punicalagin, which is a marker of ellagitannin.*

(2) *The sugar profile, as measured by high pressure liquid chromatography and by carbon isotope ratio, consists of all of the following:*

1 (A) Sucrose or maltose levels of less than 0.001 grams per 100
2 milliliters, respectively.

3 (B) A glucose to fructose ratio of between 0.8 and 1.0.

4 (C) A carbon stable isotope ratio analysis (SIRA) less than or
5 equal to -250/00.

6 (D) Mannitol and sorbitol levels at greater than, or equal to,
7 0.3 grams per 100 milliliters and less than or equal to 0.03 grams
8 per 100 milliliters, respectively.

9 (3) The organic acid profile, as measured by high pressure
10 liquid chromatography, consists of both of the following:

11 (A) Tartaric and malic (D-isomer) acids of less than 0.001
12 grams per 100 milliliters, respectively.

13 (B) A malic acid and citric/isocitric acid ratio of less than or
14 equal to 0.1 grams per 100 milliliters and the ratio of 350,
15 respectively.

16 (4) The amino acid and mineral profile, as measured by high
17 pressure liquid chromatography and flame, consists of both of the
18 following:

19 (A) A proline amino acid level of less than or equal to 25
20 milligrams per liter.

21 (B) A potassium level of greater than or equal to 1,800
22 milligrams per liter.

23 SEC. 3. Section 110727 is added to the Health and Safety Code,
24 to read:

25 110727. (a) Only 100 percent pomegranate juice or
26 pomegranate juice concentrate that reconstitutes to single-strength
27 100 percent pomegranate juice and otherwise meets the percentage
28 juice labeling requirements of Section 101.30 of Title 21 of the
29 Code of Federal Regulations in effect as of December 31, 2009,
30 may be labeled as 100 percent pomegranate juice or pomegranate
31 juice concentrate that reconstitutes to single-strength, 100 percent
32 pomegranate juice.

33 (b) Only a beverage that includes 100 percent pomegranate
34 juice or pomegranate juice concentrate that reconstitutes to
35 single-strength, 100 percent pomegranate juice may be labeled to
36 purport to include pomegranate juice by bearing the name of, or
37 variation on the name of, or by making any other direct or indirect
38 representation with respect to, any pomegranate juice or bearing
39 any vignette or other depiction or other pictorial representation
40 of any pomegranate.

1 (c) *Notwithstanding Section 111825, a person who violates this*
2 *section is guilty of a misdemeanor, and upon conviction shall be*
3 *punished by a fine of not less than five hundred dollars (\$500) nor*
4 *more than one thousand dollars (\$1,000), or by imprisonment in*
5 *the county jail not exceeding one year, or by both fine and*
6 *imprisonment. Each occurrence of a labeling violation pursuant*
7 *to this section shall constitute a separate offense.*

8 ~~SEC. 3.~~

9 SEC. 4. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.